

WHITEHEAD DECLARATION
EXHIBIT L

ICE/DRO DETENTION STANDARD

VOLUNTARY WORK PROGRAM

I. PURPOSE AND SCOPE. This Detention Standard provides detainees opportunities to work and earn money while confined, subject to the number of work opportunities available and within the constraints of safety, security and good order. While not legally required to do so, ICE/DRO affords working detainees basic Occupational Safety and Health Administration (OSHA) protections.

This Detention Standard applies to the following types of facilities housing DRO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by DRO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs and CDFs. IGSAs must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Some terms used in this document may be defined in the separate **Definitions** Standard.

II. EXPECTED OUTCOMES. The expected outcomes of this Detention Standard are:

1. Detainees may have opportunities to work and earn money while confined, subject to the number of work opportunities available and within the constraints of safety, security, and good order.
2. Detainees will be able to volunteer for work assignments but otherwise not be required to work, except to do personal housekeeping.
3. Essential operations and services will be enhanced through productivity from detainees.
4. The negative impact of confinement will be reduced through less idleness, improved morale and fewer disciplinary incidents.
5. Detainee working conditions will comply with all applicable federal, state, and local work safety laws and regulations.
6. There will be no discrimination regarding voluntary work program access based on any detainee's race, religion, national origin, gender, sexual orientation, or disability.
7. The applicable contents and procedures in this Standard will be communicated to the detainee in a language or manner which the detainee can understand.

III. DIRECTIVES AFFECTED. This Detention Standard replaces **Voluntary Work Program** dated 9/20/2000.

This Detention Standard incorporates the requirements regarding detainees' being assigned to work outside of a facility's secure perimeter originally communicated via a memorandum to all Field Office Directors from the Acting Director of U.S. Immigration and Customs Enforcement (2/2/2004).

IV. REFERENCES

American Correctional Association 4th Edition, Standards for Adult Detention Facilities: 4-ALDF-5C-06, 5C-08, 5C-11(M), 6B-02.

Environmental Health and Safety National Detention Standard

Food Service National Detention Standard

V. EXPECTED PRACTICES

A. Voluntary Work Program

Detainees who are physically and mentally able to work shall be provided the opportunity to participate in any voluntary work program.

The detainee's classification level shall determine the type of work assignment for which he/she is eligible.

Level 3 detainees shall not be given work opportunities outside their housing units/living areas.

B. Work Outside the Secure Perimeter

ICE detainees may not work outside the secure perimeter of local jails and facilities used under Intergovernmental Service Agreements.

In SPCs and CDFs, only detainees classified as Level 1 (or the facility's equivalent "Low" custody designation) may work outside the secure perimeter on facility grounds. They must be directly supervised at a ratio of not less than one staff member to four detainees. The detainees shall be within sight and sound of that staff member at all times.

C. Personal Housekeeping Required

Work assignments are voluntary; however, all detainees are responsible for personal housekeeping.

In SPCs and CDFs, detainees are required to maintain their immediate living areas in a neat and orderly manner by:

- *Making their bunk beds daily,*
- *Stacking loose papers,*
- *Keeping the floor free of debris and dividers free of clutter, and*

- *Not hanging/draping clothing, pictures, keepsakes, or other objects from beds, overhead lighting fixtures, or other furniture.*

D. Detainee Selection

The facility administrator shall develop site-specific rules for selecting work detail volunteers. These site-specific rules will be recorded in a facility procedure that will include a voluntary work program agreement. The voluntary work program agreement will document the facility's program and will be in compliance with this Detention Standard.

In SPCs and CDFs, the primary factors in hiring a detainee as a worker shall be his or her classification level and the specific requirements of the job:

- *Staff shall present the detainee's name and A-number to the shift supervisor or the requesting department head.*
- *The shift supervisor or department head shall review the detainee's classification and other relevant documents in the detainee's detention file and/or A-file.*
- *The shift supervisor or department head shall assess the detainee's language skills as it affects the detainee's ability to perform the specific requirements of the job under supervision. To the extent possible, work opportunities should be provided to detainees who are able to communicate with supervising staff effectively and in a manner that does not compromise safety and security.*
- *Inquiries to staff about the detainee's attitude and behavior may be used as a factor in the supervisor's selection.*

*Staff shall explain the rules and regulations as well as privileges relating to the detainee worker's status. The detainee is required to sign a **voluntary work program agreement** before every new assignment. Completed agreements shall be filed in the detainee's detention file*

E. Special Details

Detainees may volunteer for temporary work details that occasionally arise. The work, which generally lasts from several hours to several days, may involve such tasks as digging trenches, removing topsoil and other labor-intensive work.

F. Discrimination in Hiring Prohibited

Detainees shall not be denied voluntary work opportunities on the basis of such factors as a detainee's race, religion, national origin, gender, sexual orientation or disability.

G. Physically and Mentally Challenged Detainees

While medical or mental health restrictions may prevent some physically or mentally challenged detainees from working, those with less severe disabilities shall have the opportunity to participate in the voluntary work program in appropriate work assignments.

- The selecting official must consider the precise limitations of a disabled individual before rejecting that individual for selected work assignments.

- Expediency or convenience is insufficient justification to reject or “pigeonhole” a detainee who, with reasonable accommodation, can perform essential functions of the work assignment.
- In disputed cases, the selecting official shall consult medical personnel to ascertain the detainee's suitability for a given project.

H. Hours of Work

Detainees who participate in the volunteer work program are required to work according to a fixed schedule.

In SPCs and CDFs, the normal scheduled workday for a detainee employed full time is a maximum of 8 hours. Detainees shall not be permitted to work in excess of 8 hours daily, 40 hours weekly.

Unexcused absences from work or unsatisfactory work performance may result in removal from the voluntary work program.

I. Number of Details in One Day

The facility administrator may restrict the number of work details permitted a detainee during one day.

In SPCs and CDFs, a detainee may participate in only one work detail per day.

J. Facilities That Detain Criminal Aliens

If the facility cannot establish the classification level in which the detainee belongs, the detainee shall be ineligible for the voluntary work program.

K. Compensation

Detainees shall receive monetary compensation for work completed in accordance with the facility's standard policy.

In SPCs and CDFs, the compensation is \$1.00 per day. Ordinarily, it is to be paid daily, unless the facility has a system in place that ensures detainees receive the pay owed them before being transferred or released.

L. Removal of Detainee from Work Detail

A detainee may be removed from a work detail for such causes as:

- Unsatisfactory performance;
- Disruptive behavior, threats to security, etc.;
- Physical inability to perform all functions required by the job, whether because of a lack of strength or a medical condition;
- Prevention of injuries to the detainee;
- A removal sanction imposed by the Institutional Disciplinary Panel for an infraction of a facility rule, regulation, or policy.

When a detainee is removed from a work detail, the facility administrator shall place written documentation of the circumstances and reasons in the detainee detention file.

M. Detainee Responsibility

The facility administrator shall establish procedures for informing detainee volunteers about on-the-job responsibilities and reporting procedures.

In SPCs and CDFs, the detainee is expected to be ready to report for work at the required time and may not leave an assignment without permission.

- The detainee shall perform all assigned tasks diligently and conscientiously.
- The detainee may not evade attendance and performance standards in assigned activities or encourage others to do so.
- The detainee shall exercise care in performing assigned work, using safety equipment and taking other precautions in accordance with the work supervisor's instructions.
- In the event of a work-related injury, the detainee shall notify the work supervisor who shall immediately implement injury response procedures.

N. Detainee Training and Safety

All detention facilities shall comply with all applicable health and safety regulations and standards.

The facility administrator shall ensure that all department heads develop and institute, in collaboration with the facility's safety/training officer, appropriate training for all detainee workers.

1. *In SPCs and CDFs the voluntary work program shall operate in compliance with:*
 - *Occupational Safety and Health Administration (OSHA) regulations.*
 - *National Fire Protection Association 101 Life Safety Code*
 - *American Correctional Association Standards for Adult Local Detention Facilities, current edition*
 - *International Council Codes (ICC)*

Each facility administrator's designee is responsible for providing every SPC and CDF in his or her jurisdiction access to complete and current versions of the documents listed above.

The facility administrator shall ensure that the facility operates in compliance with all applicable standards.

2. Upon a detainee's assignment to a job or detail, the supervisor shall provide thorough instructions regarding safe work methods and, if relevant, hazardous materials including:

- Safety features and practices demonstrated by the supervisor
- Recognition of hazards in the workplace, including the purpose for protective devices and clothing provided, reporting deficiencies to their supervisors. Staff and detainees that do not read English will not be authorized to work

with hazardous materials.

- A detainee shall not undertake any assignment before signing a voluntary work program agreement that, among other things, confirms that the detainee has received and understood training from the supervisor about the work assignment.

The voluntary work program agreement shall be placed in the detainee's detention file.

3. For a food service assignment, medical staff, in conjunction with the Public Health Service, shall ensure that detainees are medically screened and certified before undertaking the assignment.
4. The facility shall provide detainees with safety equipment that meets OSHA and other standards associated with the task performed.
5. *The facility administrator shall ensure that the facility operates in compliance with all applicable standards.*

O. Detainee Injury and Reporting Procedures

The facility administrator shall implement procedures for immediately and appropriately responding to on-the-job injuries, including immediate notification of ICE/DRO.

In SPCs and CDFs, if a detainee is injured while performing his or her work assignment:

1. *The work supervisor shall immediately notify the facility medical staff. In the event that the accident occurs in a facility that does not provide 24-hour medical care, the supervisor shall contact the on-call medical officer for instructions.*
2. *First aid shall be administered when necessary.*
3. *Medical staff shall determine what treatment is necessary and where that treatment shall take place.*
4. *The work supervisor shall complete a detainee accident report and submit it to the facility administrator for review and processing and file it in the detainee's detention file and A-file.*

Standard Approved:

James T. Hayes, Jr. /s/

12/5/2008

**James T. Hayes, Jr.
Director
Office of Detention and Removal Operations**

Date